

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

DAVID IVERSON,

Plaintiff

v.

LT. FLOWERS, et al.,

Defendants

: CIVIL ACTION NO. 3:CV-12-1897

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: (Judge Nealon)

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**FILED**  
**SCRANTON**

SEP 30 2014

PER

DEPUTY CLERK

**ORDER**

**AND NOW, THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2014**, for the reasons set forth in the Memorandum of this date, **IT IS HEREBY ORDERED THAT:**

1. Defendants' motion to dismiss, (Doc. 40), is **DENIED** with respect to Plaintiff's Eighth Amendment use of force claim.
2. Defendants' motion to dismiss, (Doc. 40), is **GRANTED** as to all remaining claims. Defendants Southers, Ditty, Davis, and Department of Corrections are **DISMISSED** from this action.
3. Defendants Captain John Doe and Correctional Officer John Doe are **DISMISSED** from this case pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, as they have not been served within 120 days of the date on which they were named as Defendants in this case.
4. Plaintiff's Eighth Amendment claims of excessive force and conditions of confinement are the only claims that will proceed as to the remaining Defendants.

5. Remaining Defendants shall file any dispositive motion within thirty (30) days. Failure to file a dispositive motion will result in the case being set for trial at the convenience of the Court.

A handwritten signature in black ink, appearing to read "William J. Dealon", written over a horizontal line.

**United States District Judge**